

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|  |   |                 |
|--|---|-----------------|
| APPLICATION OF CONTEL CELLULAR OF      | ) |                 |
| KENTUCKY, INC. FOR ISSUANCE OF A       | ) |                 |
| CERTIFICATE OF PUBLIC CONVENIENCE AND  | ) |                 |
| NECESSITY TO CONSTRUCT AN ADDITIONAL   | ) | CASE NO. 94-065 |
| CELL FACILITY IN THE LOUISVILLE,       | ) |                 |
| KENTUCKY METROPOLITAN STATISTICAL AREA | ) |                 |
| (BILLTOWN ROAD CELL FACILITY)          | ) |                 |

O R D E R

On February 17, 1994, Contel Cellular of Kentucky, Inc. ("Contel Cellular") filed an application, which was amended on June 3, 1994, seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications antenna tower in the Louisville Metropolitan Statistical Area ("Louisville MSA"). Contel Cellular has requested authorization to construct a cell site in Jefferson County, Kentucky. The proposed cell site consists of a guyed antenna tower not to exceed 298 feet in height, with attached antennas, to be located at 5900 Chenoweth Run Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 09' 20" by West Longitude 85° 32' 05".

Contel Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International,

Inc. National Building Code, with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the proposed cell site's construction is exempt from local zoning ordinances. However, Contel Cellular has notified the Louisville and Jefferson County Planning Commission of the proposed construction. Contel Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed cell site. Both applications are pending.

In its original application, Contel Cellular proposed to locate cellular facilities consisting of a 188 foot high self-supporting antenna tower at 6414 Billtown Road, Louisville, Jefferson County, Kentucky. The coordinates for the cell site were North Latitude 38° 09' 00" by West Longitude 85° 33' 06". Contel Cellular filed notices verifying that each property owner and resident within 500 feet of the proposed cell site was notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. Numerous property owners and residents ("Intervenors") objected to the proposed construction and ultimately intervened in this proceeding. At the request of the Intervenors, a hearing was scheduled. On May 26, 1994, Contel Cellular filed a motion to cancel the scheduled hearing stating that it would amend its application to reflect an alternative location for the proposed tower. In support of Contel Cellular's motion, a letter dated May

16, 1994 was filed by the Intervenor requesting to withdraw from this case and cancellation of the scheduled hearing. The motions and requests of the Intervenor were granted. On June 3, 1994, Contel Cellular filed an amendment to its application changing the location of the proposed cell site. Included in the amended application was a letter executed by the only property owners within 500 feet of the new location stating that they did not oppose the proposed construction.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Contel Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Contel Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Contel Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in the Louisville MSA under its currently approved tariff.

IT IS THEREFORE ORDERED that:

1. Contel Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate a guyed antenna tower not to exceed 298 feet in height, with attached antennas, to be located at 5900 Chenoweth Run Road, Louisville, Jefferson County, Kentucky. The coordinates for the proposed cell site are North Latitude 38° 09' 20" by West Longitude 85° 32' 05".

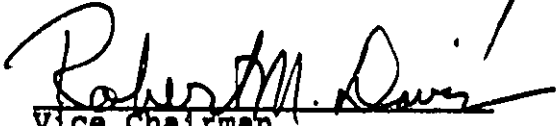
2. Contel Cellular shall file a copy of the final decisions regarding their pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.


3. Contel Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 8th day of July, 1994.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director